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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/581,870	04/12/2007	Andrew F. Skinner	7175-202438	3933
69781 7590 04/10/2008 BARNES & THORNBURG, LLP 11 SOUTH MERIDIAN STREET INDIANAPOLIS, IN 46204				
EXAMINER				
GIBSON, RANDY W				
ART UNIT		PAPER NUMBER		
2841				
MAIL DATE		DELIVERY MODE		
04/10/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/581,870

Applicant(s)

SKINNER ET AL.

Examiner

Randy W. Gibson

Art Unit

2841

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 February 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-40 is/are pending in the application.
- 4a) Of the above claim(s) 21-28 and 34-40 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 29-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Newly submitted claims 21-28 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: the apparatus having a generic force sensor that is confined to the seat section of a mattress only to determine the weight of an entire individual, was not presented in the claims as originally filed, and is considered to be a separately patentable invention from the patient support apparatus that monitors and adjusts air pressure in a mattress -- which was originally presented. This is an entirely new issue that would require a different field of search and would impose an additional burden on the office.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 21-28 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

2. Newly submitted claims 34-40 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: the computerized method of having a computer controller executing either a monitoring mode or a measuring mode, based on the determined status of a patient on a mattress, was not presented in the claims as originally filed, and is considered to be a separately

patentably invention from the patient support apparatus that monitors and adjusts air pressure in a mattress -- which was originally presented. This is an entirely new issue that would require a different field of search and would impose an additional burden on the office.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 34-40 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Response to Arguments

3. Applicant's arguments filed 28 February 2008 have been fully considered but they are not persuasive. Viard shows at least one of his sensors is clearly placed within the seat section of a mattress. Since the device controls air pressure in the entire mattress, it, by default, also controls air pressure to the foot section as well. Likewise for Caldwell.

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 29-33 are rejected under 35 U.S.C. 102(b) as being anticipated by Viard et al (US # 6,094,762). Viard disclose a frame (Col. 5, lines 1-4), a deck (40), a mattress with an inflatable cell (14), an air source (20), a pressure sensor (50), and a controller (46) to control the air-source in response to the patient's weight (Col. 6, lines 6-26).

5. Claims 29-33 are rejected under 35 U.S.C. 102(b) as being anticipated by Caldwell (WO 03/024380 A1). Caldwell discloses the claimed invention including a patient support (claim 6), a frame (8 in figure 2), a deck supported by the frame (2), a mattress supported by the deck (4, 6), an inflatable cell (7) operatively coupled to the mattress and configured to contain a fluid ("air cells (7)"), an air source ((15) in figure 2) configured to inflate the inflatable cell, a pressure sensor (p. 5, §4) configured to measure a pressure of the fluid in the inflatable cell, and a controller (20) coupled to the pressure sensor and the air source (p. 5, §4-p. 6, l.2) configured to determine a weight of a patient positioned on the patient support (steps d) to g) in claim 6), and control the air source in response thereto. See the Written Opinion of the International Searching Authority for the details of the independent claims.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Randy W. Gibson whose telephone number is (571) 272-2103. The examiner can normally be reached on Mon-Fri., 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dean A. Reichard can be reached on (571) 272-1984. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2841

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Randy W. Gibson/
Primary Examiner, Art Unit 2841

Randy W. Gibson
Primary Examiner
Art Unit 2841